EXHIBIT C

FOR THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

RUTHANNA SHIRLEY, JOHNATHAN HONE, CARLY PETERS, CHARLES FRADY, MARCUS SANCHEZ, MORGAN WINES, SAMUEL KOLB, STEPHEN J. ANDERSON, THOMAS MOATS, TRENTON DE BOER, DONALD BRADLEY ALLEN, JOSHUA BELTZ, ERIC OSWALD, DREW DELOZIER, LINDA LOPEZ, PAUL CHERRY, ISAAC STUTES, JULI ANDERSON, Plaintiffs, v. WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE, a Washington State Governmental Agency, KELLY SUSEWIND, an individual, AMY WINDROPE, an individual, LONNIE SPIKES, an individual, STEVE BEAR, an individual, CRAIG BURLEY, an individual, Defendants.	No. 3:23-cv-05077-DGE

VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION

OF

HARVEY RISCH, MD, PhD

Witness located in Boynton Beach, Florida

(All participants appeared via videoconference.)

DATE TAKEN: January 29, 2025
REPORTED BY: Nicole A. Bulldis, RPR, FCRR, WA CCR 3384
AZ CR 50955 | CA CSR 14441 | OR CSR 24-0130

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DEPOSITION OF HARVEY RISCH, MD, PhD

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REPORTED REMOTELY FROM CLARK COUNTY, WASHINGTON

Wednesday, January 29, 2025; 10:02 a.m.

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HARVEY RISCH, MD, PhD, witness herein, having been first duly sworn on oath, was examined and testified as follows:

E X A M I N A T I O N

BY MS. PETERSON

Q. Good morning. Could you -- my name's Mary Peterson. I represent the defendants in this case. Thank you for being here today.

Could you introduce yourself for the record, please?

A. I'm Dr. Harvey Risch, Professor Emeritus of Epidemiology at Yale School of Public Health.

Q. And where are you physically located today?

A. Today, during our winter sojourn, I'm in Boynton Beach, Florida.

Q. Hopefully, the weather is nice there.

A. It's a beautiful day today. We should do this outside.

Q. You know, it's funny. Just as I was sitting

down, I was thinking the one thing I don't like about being in depositions or in court is that you're stuck inside all day. It's just -- that's just the nature of our work sometimes.

A. Yes.

Q. And who is your current employer?

A. I still have a small grant, a subcontract that's running through Yale, so I have some for that. It's part-time. And I'm on the board of directors, medical -- the chief medical board of The Wellness Company, which is a medical startup company.

Q. And so for The Wellness Company, you mentioned you're on the board. Are you an employee of The Wellness Company?

A. I suppose, yes. I get paid for my board membership.

Q. Are you also a shareholder or part owner of The Wellness Company in any way?

A. Yes, I am.

Q. What percentage of the company do you own?

A. I think 5 percent.

Q. Do you get compensation from The Wellness Company in connection with your 5 percent ownership?

A. No. The shares are not publicly traded and they're not fully vested yet either.

Q. But it sounds -- but you said that was just provided to you recently?

A. Yes. I think a day or two days ago maybe.

Q. So you didn't rely on that information when you issued your written reports in this case?

A. That's correct.

Q. Did that information that you were recently provided change any of your opinions in this case?

A. No. It actually empirically confirmed my opinions in the case.

Q. You mentioned that you reviewed a complaint. Do you know whether it was an original complaint or an amended complaint?

A. I don't recall.

Q. Do you recall when you received it?

A. Hmm, not exactly sure.

Q. Was it recently or a long time ago?

A. You know, I honestly can't tell you, to be fair.

Q. You also mentioned that you reviewed letters to some plaintiffs regarding their accommodation decisions; is that right?

A. Yes.

Q. How many of those letters did you review?

A. I think three or four.

Q. Do you recall which plaintiffs they were for?

infections. The breakthrough infections were growing in November/December of 2021, growing, you know, much more intensely in January/February of 2022 and continuing, and the agency did not seem to, from what I have read, to the degree that I understand, did not mandate boosters to try to control those growing infections, those growing breakthrough infections, in their vaccinated employees.

Q. Do you have any information about what the agency did other than the complaint?

A. I have to think about that. I don't think so.

Q. Did you assume everything that was said in the complaint was true?

A. To the degree that there were scientific statements, I validated the scientific statements for -- with the literature, relevant medical scientific literature as I understand it. To the degree that there are legal statements in the complaint, that's not my area of expertise so I don't have beliefs or opinions on those.

Q. And what about the factual statements in the complaint, did you assume those were true?

A. Could you give me an example of the kinds of factual statements you're referring to?

Q. Sure. A factual statement about a particular plaintiff. I had this job, for example.

Did you assume a factual statement in the

complaint was true?

A. Yes. In general, yes.

Q. Were there any factual statements in the complaint that you did not assume were true?

A. Well, as I said, all of the statements based on legal issues, I made no judgments about.

Q. Is that because you don't have any legal training?

A. That's correct.

Q. And you're not here today to offer any legal opinions?

A. Correct.

Q. Do you have any EEOC training?

A. No. Well, actually, to a limited degree, Yale faculty members doing grant-funded research are required to go through all sorts of personnel training involving EEOC-like circumstances. And this has been the case for at least the past decade, if not longer, and so I've had all of that. Now, the degree to which one would consider this exactly relevant to the specifics of the EEOC might be limited, but it kind of bears a little on that.

Q. So you've had training as an employee in a workplace related to different employment laws; is that what you're saying?

A. A little bit.

Q. But you're not claiming here today to be an expert on EEOC law or policy?

A. That's correct.

Q. Have you ever worked --

A. There is just one other thing, though, about this, which is in my reading of the EEOC, the EEOC does address scientific questions and evaluating the burden of infection risks in the workplace. And since my expertise extends to those questions, then I've responded to the -- those scientific questions. Not to the propriety of what EEOC says or not in terms of legal issues, but just the scientific questions underlying those kinds of EEOC decisions.

Q. Are you saying that you have expertise in evaluating the risks of infection in a workplace?

A. Yes.

Q. And tell me -- tell me about your expertise in that area.

A. I'm a Fellow of The American College of Epidemiology. I've been a practicing epidemiologist for some 40-plus years. I've taught epidemiologic theory in practice at the elementary, intermediate, and advanced level to generations of MPH and PhD epidemiologists, post-docs, junior faculty.

I have a very well-established reputation in

epidemiology. My training in epidemiology starts with my medical school training, which, aside from including one course on epidemiology for medical students, involved substantial training in infectious diseases, immunology, biochemistry, molecular biology, cell biology, and so on. Infectious diseases and their diagnosis and treatment is probably a quarter of the curriculum in medical school. When I was there, I covered an entire thousand-plus-page textbook on microbiology as part of that training.

For my PhD work after medical school, I got -- my PhD was in mathematical modeling of infectious epidemics. I published on that in medical literature. And as part of my postdoctoral fellowship in epidemiology at the University of Washington, I sat in on coursework, like auditing, just not formal. I sat in on coursework on infectious and chronic disease epidemiology, biostatistics, and et cetera.

Q. And what -- prior to the pandemic, in your professional career, what work did you do that related to assessing the risks of infection in a workplace?

A. So I'm an epidemiologist. I'm not an industrial hygienist, so my job isn't to go in and look at individual jobs and the flows of infectious agents and surfaces and air and all of those kinds of things that industrial hygienists do. My job is to evaluate the numbers of

individuals who are affected by risks and what their average population or specific circumstance risk is with respect to infection transmission risks. And so this might -- you might think of as more of a supra -- s-u-p-r-a -- kind of view of workplace risks, and that's what I'm referring to here.

Q. And in this supra view of workplace risks, is that something that can only be done after the fact looking at data from a particular workplace about what happened?

A. Well, during the occurrence of a pandemic that we experienced, there was a long period where there was no after the fact. It was a continuing circumstance where the pandemic was continuing for months and years, and so what happened in one month, the next month is after the fact of that month, but it's also a month for its new occurrences and so on. And so this was a continuing evolution of understanding of what was going on and how we thought about it.

Q. So back to my previous question. Prior to the pandemic, what work had you done that involved assessing the risks of infection in a workplace?

A. I did studies that looked at workplace exposures as part of -- so the body of my career has been in looking at risk factors and etiologies of different kinds of

cancers, and those cancers as outcomes are only half of the research agenda. The other half is understanding the exposures that cause those outcomes. And so I've studied in substantial depth exposures to various chemicals, to foods, and food constituents, to workplace exposures, more I would say of the noninfectious sort like toxic chemicals in the workplace. And I studied infectious exposures, mostly bacterial exposures, some viral, in the causation of pancreatic cancer, liver cancer, and maybe some others, esophageal cancer, stomach cancer.

And so I would say that, again, I'm not addressing industrial hygienist levels of exposure risks in workplaces. I'm addressing the quantitative risks of infection occurrence in workplaces as an epidemiologist.

Q. Prior to the pandemic, what experience did you have addressing the quantitative risk of infection in a workplace as an epidemiologist that was not related to cancer?

A. Hmm, I'd have to think of that. Most of it was related to cancer as an outcome, but as I've said, in order to understand cancer etiologies, you have to understand the exposures, and so the scientific knowledge base about those exposures is half of the literature and body of science that has to be understood. So specifically speaking, at the level you're speaking about,

no, I have not -- I did not do any intermittent workplace evaluations.

Q. Prior to the pandemic, did you claim to be an expert in any particular infectious disease?

A. Not specifically.

Q. Do you now claim to be an expert in any particular infectious disease?

A. Well, I would say that expertise is a continuum. And to the degree that I've spent the last four years largely focused on SARS-CoV-2 and the COVID pandemic, and reading many hundreds of papers and thinking about the pandemic, refreshing my original education and PhD and mathematical modeling of infectious epidemics and so on, I would say that I've gained substantial expertise in the COVID pandemic.

Q. Do you claim to be an expert in how to treat patients with COVID?

A. No, that's -- those are clinical issues. I'm not clinically licensed to practice medicine.

Q. Did you ever do a residency?

A. No.

Q. Did you ever apply to do a residency?

A. No.

Q. Have you ever treated a patient?

A. No.

at age 73, I had devoted enough of my time to the scientific research.

Q. Were you pressured to retire in any way?

A. No.

Q. Did you feel encouraged to retire?

A. Not really, no. I mean, I think my own personal feelings about it were that science is hard. Getting grant funding is hard and it was a constant pressure to maintain grant funding and had become increasingly more difficult, as I'd experienced in the last few years, the last five years, seven years before I chose to retire, and I said, "I'm just not enjoying these pressures anymore," and so that formed part of my reason for retiring.

Q. In your job at Yale, did you have an obligation to raise a certain amount of money through grant funding?

A. There were expectations, but it was flexible. The percents of salary funding by grants varied. It was offset by teaching responsibilities and advising and committee membership and other academic activities.

Q. Is there a process at Yale that a faculty member needs to go through to become an emeritus?

A. In general, it's automatic. The dean of the school applies for it during the last month of appointment, and it goes to the university corporation, the board of governors as it were, and they generally

accept the dean's recommendations. The dean of the medical school, in which -- when I was a full-time faculty member, the school of public health was also a department in the medical school, so the dean of the medical school was the relevant dean, and she put forth that application and it was accepted by the corporation.

Q. Do you know whether there were any negative votes or any negative voices in connection with your emeritus application?

A. I have no information about what the corporation said or did other than they approved it.

Q. So you mentioned you work for Yale about 3 percent of your time; is that right?

A. Yes.

Q. What do you do with the rest of your time?

A. Well, I'm enjoying retirement. As I -- as in this legal case, I've done a few legal cases related to COVID. I'm also, as I've said, on the chief medical board of The Wellness Company which involves interactions with the business side of the company and with my medical colleagues there. That takes some amounts of time.

Q. And how much of your time would you say you spend on legal cases related to COVID?

A. Hmm, I don't know. I'd say 20 percent.

Q. And how much of your time would you say you

Q. In your field, is there a particular journal that is considered to be the best?

A. My field is quite broad. So even in cancer epidemiology, there's multiple cancer journals, let alone epidemiology as a whole so I don't particularly rank the journals anymore. I've been involved with some very high-quality journals, I would say. JNCI, Journal of the National Cancer Institute, is a high-quality journal. The American Journal of Epidemiology is probably a high-quality journal. Those are scientific journals, not medical journals, per se. Medical journals is a whole different axis of reasoning because they deal with clinical topics, not just scientific topics.

Q. And during your career as a cancer epidemiologist, did you publish in medical journals or scientific journals or both?

A. Both. More often scientific journals, but both.

Q. And prior to 2020, your professional career has -- had been as a cancer epidemiologist; is that right?

A. Largely cancer dealing with the outcomes of interests that I had studied.

Q. We've been going for about an hour and a half. Why don't we take a break, 10 or 15 minutes?

A. That's okay with me.

MS. PETERSON: All right.

A. No.

Q. Why not?

A. Because I don't consider it to be an academic appointment.

Q. Is it typical --

A. Could I --

Q. Go ahead.

A. Just like my lay essays, op-eds, and media are not listed in my CV because I don't consider them academic scholarship either.

Q. So your intent with this CV is only to list what you consider to be academic scholarship and related activities?

A. Yes.

Q. Do you have a different document where you keep track of your other experience?

A. Actually, no. I probably should, but no.

Q. You mentioned that you have more than 400 publications; is that right?

A. Approximately.

Q. And are those all peer-reviewed publications?

A. Almost entirely, I think.

Q. And how many of those relate to COVID or pandemic-related topics of the 400?

A. Four or five maybe.

Q. Four to five papers?

A. Yes.

Q. Do you know whether in 2023 -- and I'm happy to scroll through the list if you'd like. Do you know whether, in 2023, you had any published papers related to COVID or the pandemic?

A. Well, we're looking at one on the screen right now, the first one. They are listed for 2023.

Q. Okay. Other than -- other than this -- and you're looking at the one that said, "Plausibility, not science, has dominated public discussions of the COVID pandemic"?

A. Yes.

Q. And what journal was that published in?

A. The American Journal of Economics and Sociology, I think.

Q. Is that a -- is that a medical journal?

A. It's a scientific journal.

Q. And this -- I see the entry says, "Online ahead of print." What does that mean?

A. That means the journal has put it up on its public-facing website for people to read after being accepted for publication.

Q. And do you know whether it has, in fact, come out in the published version of the journal?

didn't have any effect on the opinions you've reached in this case; right?

A. I think that's correct.

Q. In 2023, did you have any other pandemic or COVID-related articles?

A. You mean scientific articles?

Q. Yes.

A. I don't think so.

Q. And I'm happy -- I'm happy to scroll. Starting here on Page 5 and scrolling down to Page 6, I'll just scroll down so you can take a look at your articles for 2023.

A. (Deponent reviews exhibit.)

Q. And we'll move on to Page 7.

A. Okay. So no others that I can see.

Q. Okay. So no other COVID or pandemic-related articles in 2023?

A. Through October of that year. I don't recall whether something else might have come in at the end of the year.

Q. Okay. Do you recall whether you've had any peer-reviewed publications related to COVID in late 2023 to now?

A. I think so. I'm not the first author or the senior author on those, so I haven't followed them all

that carefully. I read them and made comments on them.

Q. So these would be papers where you had some kind of a minor role?

A. Correct.

Q. And as you sit here now, do you recall what they were?

A. There was one by Dr. Peter McCullough who I think was the senior author.

Q. And in what journal was that published?

A. I don't recall.

Q. What was the topic of the article?

A. It was looking at the presence of vaccine components in autopsy samples of people who had died.

Q. And that doesn't have anything to do with your opinions in this case; right?

A. Correct.

Q. Do you recall in 2022 whether you had any articles published related to COVID or the pandemic?

A. I don't think so. But if you want to go down and look, it would be here.

Q. Sure. We'll start on Page 7 where I see 2022, and I'll just scroll down for you.

A. Okay.

(Deponent reviews exhibit.)

So, no, I don't see any.

Q. What about in 2021, did you have any published articles related to COVID or the pandemic?

A. I think I did. Again, if we could scroll down.

(Deponent reviews exhibit.)

There's one. There's one, Medical Hypotheses, and the first author is Dr. Paul Alexander.

Q. And so the entry at the bottom of Page 10, the last entry on the page?

A. Yes.

Q. And when that says "Medical Hypotheses," is that the name of the journal?

A. Yes.

Q. Is that a peer-reviewed journal?

A. I believe so.

Q. And what did this -- did this article -- it looks like this article is -- relates to early treatment of COVID; is that right?

A. Yes.

Q. Does this article -- this article related to early treatment, then, doesn't have anything to do with your opinions in this case; right?

A. Correct.

Q. Let's get -- we're continuing on in 2021.

A. There's one of Peter McCullough that's there on the middle of the page.

Q. And it looks like that -- what journal is that in?

A. American Journal of Medicine.

Q. Is that a peer-reviewed journal?

A. I believe so.

Q. And it looks like this is another article about early treatment; is that right?

A. Yes.

Q. So that doesn't have anything to do with your opinions in this case?

A. Correct.

Q. Continue scrolling down. It looks like we've hit the end of 2021. So it looks like you had -- you had two articles on pandemic-related topics in 2021; is that right?

A. Yes.

Q. And neither of them related to your opinions in this case.

A. Correct.

Q. Now, let's look at 2020. And there wouldn't be any reason to look for publications related to the pandemic before 2020; right?

A. Correct.

Q. Okay. So this will be -- this will be the last year we look at. So for 2020, do you recall any

of 2020. Do you recall whether you had any other COVID papers in 2020? I'm happy to keep scrolling, if you'd like.

A. I don't think so.

Q. Okay. Okay. Now, we've gotten to 2019, and did you see any other COVID papers in 2020?

A. No.

Q. Okay. So have we -- have we looked at on this résumé all the publications that you recall in peer-reviewed journals related to COVID or the pandemic that you have been an author of?

A. Yes, except for ones in 2024.

Q. And none of those publications relate to your opinions in this case.

A. That would be correct.

(Exhibit No. 2 introduced.)

Q. (By Ms. Peterson) Okay. I'm showing you what I'd like to have marked as Exhibit 2. It's a two -- I'm sorry -- it's a 19-page document.

Doctor, do you recognize this?

A. Yes.

Q. What is it?

A. This looks to be the report that I submitted for my opinions in this case.

Q. And is this report accurate?

to follow the governor's mandate. So I don't see the point of even addressing the propriety of the mandate here because the agencies were required, as I understand it, to follow it to the letter of the law anyway.

Q. Then why do you -- why do you start your opinion here talking about the mandate?

A. Well, I think that's background that -- as I've said, I think that had the vaccines been supported by suggestions that people take them, by incentivizing without draconian incentives that people take them, you know, even in the case from 1905, the smallpox Cambridge Jacobson case, the penalty that the court found for not taking the vaccine was in today's dollars about $150. So incentivizing was not an option in any of this. It went straight from zero to mandate, and I think that this is part of the background of the case. That's why I was talking about --

Q. So in your view -- in your opinion, it was a good idea to encourage people to get vaccinated, but a bad idea to force them to do it; is that right?

A. In the first half of 2021, correct. In the second half of 2021, the vaccines were failing and so that gets tempered to the degree that they had failed in that time period.

Q. And your view that the vaccines were failing in

the second half of 2021, is that a view that is generally accepted by scientists in the -- in the epidemiological scientific community?

A. As I said, I have not interviewed the representative sample of scientists in the epidemiologic community to know whether they think that or not.

Q. So you don't know whether that view is generally accepted or not among epidemiologists?

A. I'm -- I go on the data that are out there that are as objective as can be obtained and derived and draw conclusions from the data themselves, not on what people think about the data. You know, Karl Popper, the philosopher of science, famously said that studies about what scientists believe have no relationship to studies of how nature behaves. You know, science -- scientists have been wrong so many times when science has evolved that questioning what scientists believe is not an effective way of understanding science. One has to go back to the data and the studies and understand what they found.

Q. Do you know whether your view that the vaccines were failing in the second half of 2021 is generally accepted as accurate within the scientific community?

A. I think I just answered that question.

Q. Is the answer to that: No, you don't know?

A. No. The answer is I haven't done a study of

scientists to address what they think about it.

Q. Do you know whether your views related to the pandemic are considered outliers?

A. I have no idea.

Q. Have you ever heard from other members of the epidemiological community who are critical of your views?

A. Yes.

Q. And explain to me those circumstances.

A. Well, the dean of the school of public health in 2020, after I had published my opinions and reviews of the evidence for hydroxychloroquine, labeled me as a scientific contrarian. I don't know if contrarian is negative or positive these days, but that would indicate that he thought my views were novel.

Q. And that's the dean of the School of Public Health at Yale where you were employed?

A. Yes, he's no longer dean.

Q. Is there any other members of your scientific community, that is, epidemiologists, who have come out publicly criticizing your views?

A. Yes.

Q. And who else has criticized your views?

A. People -- some of the other editors on the American Journal of Epidemiology disagreed with my understandings of the work that I did in reviewing the

A. No.

Q. So no other member of the epidemiological community could review your work and try to replicate it or discredit it; right?

A. Well, so I might have mentioned this, and I'm trying to think of a lay article on Brownstone. I'm not sure. I'd have to go look to see whether I mentioned any of this. I think I did. I think there's one article in Brownstone Institute where I spoke about the CDC's 2023 data, so that's out there. I've had no criticism about that. That was not intended to be peer-reviewed, and that reporting data provided by other studies is not research. It's a review of research, and that's a different question.

Q. Have you put your review of the efficacy of vaccines in late 2020 -- in the second half of 2021, have you put that out there publicly so that your peer epidemiologists could review it, try to replicate it, or reach their own conclusions?

A. No to the first half. Trying to replicate, there's no replication because there's no new data being measured or derived.

Q. And your view that the vaccines should not have been mandated is based on your view that vaccines were not effective in the second half of 2021; is that right?

A. And -- yes. Not effective enough in --

Q. Not effective enough.

Did -- in your view, in the second half of 2021, were -- did vaccines have any effectiveness?

A. They might've had some.

Q. And what would that have been?

A. To reduce the risk of infection transmission a little bit. There was -- there's opposing studies in that time period. There was a study done of 50,000 healthcare employees at Cleveland Clinic that showed the more -- this is Shrestha, S-h-r-e-s-t-h-a, is the first author, something like that -- that showed that the more doses of vaccines one took, the greater risk of infection. So that would be negative efficacy, however, that's only one study among numbers of studies. So there was clear evidence that the vaccines weren't doing what they promised of reducing transmission, and, you know, an almost complete way is 95 percent effective, which is what we were promised by the original randomized trials early on in late 2020, early 2021.

So in that -- and so the second question about mandates that we haven't addressed yet is what's the rationale for a mandate if everybody could choose to take the vaccine anyway? The CDC at the time said that the only contradictions -- contraindications to getting

vaccinated were getting a severe immune reaction called anaphylaxis, and the risk of that was estimated in the paper by Blumenthal in that period to be about one person in 100,000, which means, according to those data, that 99,999 people out of 100,000 could've chosen to take the vaccines without a contraindication according to CDC.

And so the question is why does somebody have to be mandated to prevent the spread of the infection when everybody else -- virtually everybody else in the population could choose to be -- to take the vaccines to protect themselves if they so chose?

Q. And if that's what you believe is the relevant question, how does an epidemiologist scientifically answer that question?

A. That's not exactly a scientific question. The question, it bears on epidemiologic scientific data, but that's a values question that's not for me to make. I'm only posing this as a question.

Q. So you agree that that's not part of your expertise as an epidemiologist to answer that question.

A. The moral question is not a scientific question.

Q. What is the scientific question you believe you were asked to answer in this case?

A. The scientific question is were -- is there accommodations that could have been offered to plaintiffs

If you add 36 to 81, doesn't that lead to a 45 percent increase in the number of employees who theoretically would get COVID?

A. Yeah. But if you add 81 to 36, you get, you know, a 200 percent increase.

Q. And as an epidemiologist, do you have a scientific view about whether it is reasonable for an employer to want to reduce the risk of COVID in its workplace?

A. As I said, this was a risk-benefit equation that needed to be done, and my point in this is that the employer tolerated those estimated 81 infections without policy changes.

And you're asking should the employer have tolerated in addition another 36, and I'm saying they tolerated 81. Why would they put the onus on 36 when they've already tolerated 81?

Q. And is there an epidemiological formula or standard that epidemiologists in your field rely on when making this sort of what you've called a cost-benefit analysis?

A. I think I've explained it pretty well here of comparing the number of estimated infections in one side of the policy versus a number on the other side of the policy.

Q. Is there -- is there, within your scientific field, an established percentage of infections that is too high?

A. No.

Q. Is there an established percentage of infections that is considered to be okay scientifically?

A. No.

Q. That's not a question that you can answer as an epidemiologist; right?

A. Correct. That's a value adjustment, not a scientific question.

Q. I've gone back to Page 3, and there's a chart here that says "US (studywide) trends in COVID-19 seroprevalence." Do you see that?

A. Yes.

Q. Why did you include this chart?

A. This was the basis of my assertion that, by the end of 2023, it was empirical that almost everybody in the US population had had COVID.

Q. And why include a chart showing how things stood at the end of 2023 instead of how things stood in August to October of 2021?

A. Well, I included that chart too further down, but the point -- this was the background section where I spoke about that I predicted from obvious epidemiologic

vaccine efficacy.

Q. And as an epidemiologist, do you think it is reasonable for an employer in the later half of 2021 when infection levels were rising to want to take action to protect its employees and the public?

A. As long as it's done proportionately in good policy.

Q. And whether something is good policy isn't your specialty; correct?

A. Well, I -- my specialty is proportionally. That's what we've been talking about in these calculations here.

Q. And your view of whether something is proportionally appropriate in this case is based on comparing the number of estimated breakthrough infections with the number of people who requested an exemption from vaccination; is that right?

A. Yes.

Q. And if that number of people who requested exemption from vaccination was different than the 36 people you predicted here, you would want to reevaluate that opinion, wouldn't you?

A. Well, number one, that's hypothetical and speculative, but, number two, it would have to have been substantially larger in order to compete numerically with

Q. But you don't know whether any of these plaintiffs were engaged in either type of activity; right?

A. Well, I know some were; some were workers in the field.

Q. Which ones?

A. Well, I don't remember that. I read the complaint and it spoke to some of that, I believe.

Q. And you assume that what the complaint said was accurate?

A. I had no reason to discount any of that material. But overriding all of this is I express no expertise in industrial hygiene and the evaluation of risks in workplaces on the basis of hygiene-type measurements. That's not part of my expertise in public health, and so there was no reason for me to consider any of this.

Q. So you're -- so you're not making any -- expressing any opinions about whether masking or social distancing would've been effective in a particular workplace or not?

A. I have opinions about that based on evidence from -- that I have read throughout the pandemic and that they were not effective, but that we didn't know that to the degree of certainty we know now. We didn't know that in the period of 2021, say.

affects your opinions in this case?

A. I don't think so. It was limited to systems of adverse events that have been documented empirically and/or in theory to some of the different kinds of outcomes like cancer.

Q. You mentioned -- oh, I'm sorry. Go ahead.

A. And so this -- that's part of a totally different discussion on each individual's reasoning about getting the vaccine or not. There was a benefit equation from that.

Q. You mentioned chapters in books. Do you have any chapters in books that relate to your opinions in this case?

A. I have a chapter in a book that relates to COVID and the vaccines. I think the book was Canary in a COVID Mind, or something like that, a chapter, and there was two volumes of that. My chapter was in the first one, and that got translated into French surprisingly and -- no, it's something else that got translated into French, but that's out there in the international market and that's also not related to the reasoning and opinions in this case.

Q. And what about your work for The Wellness Company, is that -- does that have any connection to your opinions in this case?

A. No. The -- my involvement in The Wellness Company was initially to create a forum for telemedicine where patients could go and obtain standard-of-care early treatment for COVID infections, primary care. That amplified into providing various supplements and other things, but my interest was in the telemedicine side of things. So that was -- that's a totally different axis than my reasoning in this case.

Q. But in the well -- for The Wellness Company, you recommend products; right?

A. I have recommended with various degrees of certainty about the efficiencies, the utility of products, a few of the many products that they list. I don't advocate for all of them by any means.

Q. And you recommend one called the spike booster or something like that?

A. Spike Support.

Q. Spike Support?

A. Yes.

Q. What is that product?

A. It's a product that involves nattokinase and some other natural derived ingredients that are understood biochemically to help disassemble spike protein in the blood. Its main use is for long COVID, to reduce symptoms of long COVID.

Q. And is this something that's been FDA-approved?

A. No, but, again, it's not asserting that it could be used for treatment. It's being listed as a supplement. We have some degree of evidence that it works in the clinical experience, so Dr. McCullough and others have been using it. I don't have that clinical experience so I don't advocate on that basis. There are some theoretical papers about some of the ingredients and laboratory work suggesting it would be useful and other evidence that the nattokinase and other things do get absorbed into the bloodstream to do what we think they do. This is kind of new and ongoing and empirical, and that's where we are with things.

Q. And have you performed any research to determine whether this is safe before recommending it to people?

A. Well, me, myself, no, but all of the ingredients are recognized as safe as supplements go.

Q. Have you performed -- have you performed any research to know whether the compilation that your company has created is safe?

A. I, myself, have not.

Q. Are you aware of whether the company has?

A. No.

Q. Is that important to you before you recommend a product?

A. Yes. Yeah. We're very careful about gathering the clinical information of people who use this, who report to us.

Q. And by gathering the clinical information, do you mean anecdotal information from doctors who recommend it to their patients?

A. Well, I object to use of the term anecdotal. Anecdotal means one or two people. If you collect a case series of individuals, that's not anecdotal. That's a case series.

Q. And is The Wellness Company doing that, collecting a case series for all the people that use the product?

A. No. But for people like Dr. McCullough who uses it in his clinical practice, in his cardiology practice, who has been keeping records of that, there is some growing body of knowledge about it.

Q. Do you also recommend Spike Support Gummies for children?

A. I have not advocated for that product.

Q. Why not?

A. Because I have -- I don't have access to convincing evidence one way or the other about it.

Q. What's the difference between the evidence that you have for Spike Support for adults versus Spike Support

for children?

A. Children are not small adults, and the evidence in adults is not necessarily extrapolatable to children.

Q. When you do your work as an epidemiologist, do you wear a lab coat?

A. No.

Q. Have you ever?

A. In medical school.

Q. Since medical school, have you ever worn a lab coat?

A. On rare occasions when I go into my lab. I'm not the main lab person in my lab that I had at Yale. So in that circumstance, yes; but other than that, no.

Q. When you do your work as an epidemiologist, what does that physically look like? Is that you sitting at a computer, you know, looking at spreadsheets and things, or what physically does it look like when you're doing your work?

A. Well, work has changed in 40 years. More recently, it is a lot of computer work. It used to be going to the library and reading a lot before all of our information technology changed. It involves hiring people to carry out field studies, defining the methods to be used for performing the field studies and monitoring all of that, writing documents for, you know, informed

A. Not necessarily. I -- you're asking me to do a calculation in my head that I can't do right now.

Q. Because you haven't done that calculation in connection with your opinions in this case.

A. That is correct.

Q. And you have not done any research in connection with your opinions in this case related to other potential methods of accommodation like masking or social distancing or some of the other things Mr. McGlothin mentioned to you; correct?

A. I did not entertain those because those are policy issues that did not -- I did not feel were in the purview of what -- the science that I was evaluating.

Q. And you do not know what the individual plaintiffs' job responsibilities were in this case; correct?

A. Correct.

Q. And you do not know whether the employer felt those responsibilities could be effectively carried out on an ongoing basis remotely or not, do you?

A. Well, if I recall correctly, the complaint to the degree that I accepted what's in the complaint, as you've mentioned many times, said that they were required to come in for meetings with supervisors. The implication there that that was the only or main reason why they had

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF CLARK)

I, Nicole A. Bulldis, RPR, a Certified Court Reporter, do hereby certify under the laws of the State of Washington:

That the foregoing deposition upon oral examination of Harvey Risch, MD, PhD, was taken stenographically by me, via Zoom, on January 29, 2025, and transcribed under my direction;

That the witness was duly sworn by me to testify truthfully, and that the transcript of the deposition is full, true, and correct to the best of my ability;

That I am not a relative, employee, or counsel of any party to this action or relative or employee of such counsel, and that I am not financially interested in the said action or the outcome thereof.

Reading and signing was requested pursuant to FRCP Rule 30(e).

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of February 2025.

Nicole A. Bulldis, RPR
WA CCR No. 3384